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26/021 7590 08/26/2009 HOGAN & HARTSON L.L.P. 1999 AVENUE OF THE STARS SUITE 1400 LOS ANGELES, CA 90067				
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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte TSUYOSHI YAMAMOTO
and TOSHIHIKO HIROSHIMA

Appeal 2009-001,031
Application 10/697,455
Technology Center 2600

Decided: August 24, 2009

Before ROBERT E. NAPPI, MARC S. HOFF,
and CARLA M. KRIVAK, *Administrative Patent Judges*.

NAPPI, *Administrative Patent Judge*.

DECISION ON APPEAL

This is a decision on appeal under 35 U.S.C. § 134(a) of the rejection of claims 1-12. We have jurisdiction under 35 U.S.C. § 6(b).

We reverse.

INVENTION

The invention is directed to a system and method for optical disc recording and playback. *See generally* Specification 1-4. Claim 1 is representative of the invention and reproduced below:

1. A tilt control method in an optical pickup including a tilt adjustment coil for adjusting the tilt of an objective lens, comprising the steps of:
 - recording an offset adjustment signal in a test recording area provided on an optical disc,
 - wherein said offset adjustment signal is recorded while modifying a driving signal level supplied to said tilt adjustment coil;
 - thereafter playing back an RF signal of said offset adjustment signal that was recorded on the optical disc;
 - detecting the peak level in the RF signal of said offset adjustment signal that was played back; and
 - setting said driving signal level, when the detected peak level reaches a maximum, as an offset value for the driving signal to be supplied to the tilt adjustment coil;
 - wherein the tilt angle of the optical pickup is changed by changing the level of the drive current supplied to the tilt adjustment coil.

REFERENCES

Park	US 2002/0060964 A1	May 23, 2002
Akagi	US 6,434,096 B1	Aug. 13, 2002

REJECTIONS AT ISSUE

The Examiner rejected claims 1-12 under 35 U.S.C. § 103(a) as being unpatentable over Park in view of Akagi. Ans. 4-15.

ISSUES

Rejection of claims 1-12 under 35 U.S.C. § 103(a) as unpatentable over Park in view of Akagi

Independent claims 1, 3, and 5

Appellants argue on pages 15-17 of the Appeal Brief and pages 5-6 of the Reply Brief that the Examiner's rejection of claims 1, 3, and 5 is in error. Appellants argue that Akagi does not teach "recording an offset adjustment signal in a test recording area provided on an optical disc" and "wherein said offset adjustment signal is recorded while modifying a driving signal level supplied to said tilt adjustments coil." App. Br. 16; Reply Br. 5-6. Appellants additionally argue that Akagi does not disclose "detecting a peak level of an RF signal." App. Br. 17.

Thus, with respect to independent claims 1, 3, and 5, Appellants' contentions present us with two issues: (1) Have Appellants shown that the Examiner erred in finding that Akagi teaches recording an offset adjustment signal while modifying a driving signal level that is supplied to a tilt adjustment coil? (2) Have Appellants shown that the Examiner erred in finding that Akagi teaches detecting a peak level of an RF signal?

Claims 2, 3, and 8-17

Appellants argue on pages 16-17 of the Appeal Brief and pages 4-6 of the Reply Brief that claims 7, 9, and 11 are allowable for the same reasons claims 1, 3, and 5 are allowable.

Thus, Appellants' arguments with respect to the Examiner's rejection of claims 7, 9, and 11 presents us with the same issues as claims 1, 3, and 5.

Claims 2, 4, 6, 8, 10, and 12

Appellants argue on page 17 of the Appeal Brief and page 6 of the Reply Brief that claims 2, 4, 6, 8, 10, and 12 are allowable based upon their dependency on claims 1, 3, 5, 7, 9, and 11. Thus, Appellants' arguments with respect to the Examiner's rejection of claims 2, 4, 6, 8, 10, and 12 present us with the same issues as claims 1, 3, 5, 7, 9, and 11.

FINDINGS OF FACT

Park

1. Park discloses a tilt controlling method and apparatus wherein the apparatus contains an optical disk 10, an optical pick-up unit 20, an RF and servo error producing unit 30, a servo controlling unit 40, and a servo driving unit 50. ¶ [0054] and Fig. 1.
2. The RF and servo error producing unit 40 contains an RF producing block 31 that produces an RF signal, and FE producing unit 32 that produces an FE signal, and a tracking error producing block 33 that produces a tracking error. ¶ [0055] and Fig. 1.
3. The servo controlling unit 40 contains a tilt error detecting/controlling block 43, which comprises an RF peak detecting block 43a that detects the RF peak from the RF envelope signal, an FE Max./Min. detecting block 43b that detects the maximum and minimum values in the FE signal from the focus error producing block 32, a spindle rotation information block 43c that uses information from a frequency oscillator 60 to obtain a spindle rotation velocity, and a tilt controlling block 43d. ¶ [0057] and Fig. 1.

4. The tilt controlling block 43d outputs to the tilt driver 52 of the servo driving unit 50, the tilt control signal according to the values and signals received from the spindle rotation information block 43c, the FE Max./Min. detecting block 43b, and the RF peak detecting block 43a. ¶ [0057] and Fig. 1.

Akagi

5. Akagi discloses an optical information reproducing and recording device that comprises a disk, an optical pickup that contains an object lens to apply a light spot to the disk, a tracking error detection section that detects the position of the light spot in reference to the information track and outputs an error signal that corresponds to the displacement, a lens movement section, a tracking control section, an object lens displacement estimation section, an offset detection section, a memory section, and an offset correction section. Col. 9, ll. 11-41.
6. “The offset amount of the tilt error signal depending on the movement direction of the optical pickup is stored beforehand, the above-mentioned stored offset is read, and the tilt error signal is corrected depending on the movement direction of the optical pickup detected by the rotation direction detection section.” Col. 12, ll. 40-45.

PRINCIPLES OF LAW

Office personnel must rely on Appellants' disclosure to properly determine the meaning of the terms used in the claims. *Markman v. Westview Instruments, Inc.*, 52 F.3d 967, 980 (Fed. Cir. 1995) (en banc). "[I]nterpreting what is *meant* by a word *in* a claim 'is not to be confused with adding an extraneous limitation appearing in the specification, which is improper.'" *In re Cruciferous Sprout Litigation*, 301 F.3d 1343, 1348, (emphasis in original) (citing *Intervet Am., Inc. v. Kee-Vet Labs., Inc.*, 887 F.2d 1050, 1053 (Fed. Cir. 1989)).

On the issue of obviousness, the Supreme Court has stated that "[t]he combination of familiar elements according to known methods is likely to be obvious when it does no more than yield predictable results." *KSR Int'l Co. v. Teleflex Inc.*, 550 U.S. 398, 416 (2007).

ANALYSIS

Rejection of claims 1-12 under 35 U.S.C. § 103(a) as unpatentable over Park in view of Akagi

Independent claims 1, 3, and 5

Appellants' arguments have persuaded us that the Examiner erred in rejecting claims 1, 3, and 5. Independent claim 1 recites "recording an offset adjustment signal in a test recording area provided on an optical disc, wherein said offset adjustment signal is recorded while modifying a driving signal level supplied to said tilt adjustment coil...and setting said driving signal level, when the detected peak level reaches a maximum, as an offset value for the driving signal to be supplied to the tilt adjustment coil."

Independent claims 3 and 5 recite similar limitations. Appellants argue that Akagi does not teach recording an offset adjustment signal while modifying a driving signal level because Akagi teaches that the offset level is stored beforehand. App. Br. 16; Reply Br. 4-6. The Examiner finds that Akagi suggests that the optical pickup is moving when the offset amount is being stored and therefore a driving signal must be supplied to the tilt adjustment coil at the same time. Ans. 16. We agree with Appellants.

Akagi discloses that “[t]he offset amount of the tilt error signal depending on the movement direction of the optical pickup is stored beforehand, the above-mentioned stored offset is read, and the tilt error signal is corrected depending on the movement direction of the optical pickup detected by the rotation direction detection section” (emphasis added). FF 6. The Examiner relies on the portion of the reference that states “depending on the movement direction of the optical pickup,” to make a finding that the optical pickup is moving when the offset amount is stored. Ans. 16. However, the Examiner fails to address the word “beforehand” found in that same sentence. Appellants argue that, because the reference states “beforehand,” the storing action cannot occur at the same time the driving signal level is modified. App. Br. 16; Reply Br. 4. We agree. Therefore, we find that Akagi only suggests that the initial movement direction of the optical pickup is known, not that the optical pickup is currently moving when the offset amount is stored.

Because Appellants have shown the Examiner erred in finding that Akagi teaches storing the offset amount while modifying the driving signal level we cannot sustain the Examiner’s rejection of claims 1, 3, and 5. We

therefore need not reach Appellants' second argument regarding whether Akagi teaches detecting a peak level of an RF signal. App. Br. 17.

Independent claims 7, 9, and 11

Appellants' arguments have persuaded us of error in the Examiner's rejection of claims 7, 9, and 11. Claims 7, 9, and 11 contain similar limitations to claims 1, 3, and 5. Appellants' arguments present the same issues discussed with respect to claims 1, 3, and 5. App. Br. 16-17; Reply Br. 4-6. Therefore, we do not sustain the Examiner's rejection of claims 7, 9, and 11 for the reasons discussed *supra* with respect to claims 1, 3, and 5.

Claims 2, 4, 6, 8, 10, and 12

Appellants' arguments have persuaded us of error in the Examiner's rejection of claims 2, 4, 6, 8, 10, and 12. Claims 2, 4, 6, 8, 10, and 12 ultimately depend upon claims 1, 3, 5, 7, 9, and 11, respectively. Appellants' arguments that the rejection of these claims is in error for the reasons discussed with respect to claims 1, 3, 5, 7, 9, and 11 is persuasive for the reasons discussed *supra* with respect to claims 1, 3, 5, 7, 9, and 11. Therefore, we will not sustain the Examiner's rejection of claims 2, 4, 6, 8, 10, and 12.

CONCLUSIONS OF LAW

Appellants have shown that the Examiner erred in finding that Akagi teaches recording an offset adjustment signal while modifying a driving signal level that is supplied to a tilt adjustments coil.

SUMMARY

The Examiner's rejection of claims 1-12 is reversed.

REVERSED

ELD

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